

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

the performance of duty.² She stopped work on the date of injury.³ OWCP initially accepted appellant's claim for contusion of the right lower leg, and later expanded the acceptance of the claim to include crushing injury of the right knee and lower leg, left ankle sprain, right prepatellar bursitis, and right knee other tear of the lateral meniscus. Appellant underwent OWCP-authorized right knee arthroscopy with partial lateral meniscectomy on November 9, 2015.

On March 15, 2018 appellant filed a claim for compensation (Form CA-7) for a schedule award.

By decision dated May 21, 2020, OWCP granted appellant a schedule award for two percent permanent impairment of the right leg. The period of the award ran for 5.76 weeks from August 3 to September 12, 2018. On May 27, 2020 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated August 4, 2020, an OWCP hearing representative, following a preliminary review, set aside the May 21, 2020 decision and remanded the case for further development of the medical evidence regarding the extent of appellant's bilateral lower extremity permanent impairment. The hearing representative also directed OWCP to administratively combine appellant's prior claims for lower extremity injuries under OWCP File Nos. xxxxxx421, xxxxxx417, and xxxxxx960 in accordance with OWCP's procedures.

Following further development of the medical evidence, OWCP, in a September 8, 2020 decision, denied appellant's schedule award claim, finding that the evidence of record was insufficient to establish permanent impairment of a scheduled member or function of the body. On September 16, 2020 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review, which was held on January 5, 2021.

In a February 10, 2021 decision, a second OWCP hearing representative affirmed the September 8, 2020 decision.

The Board has duly considered the matter and finds that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined where correct adjudication depends on cross-referencing between files and where two or more injuries occur to the same part of the body.⁴ The evidence of record indicates that appellant had prior accepted injuries to her bilateral lower extremities in OWCP File Nos. xxxxxx421, xxxxxx417, and xxxxxx960. Although directed by OWCP's hearing representative to combine the files, the electronic case record as transmitted to the Board, however, indicates that they had not been

² Appellant has prior claims, including a December 1, 2005 occupational disease claim under OWCP File No. xxxxxx421 that was accepted for left plantar fasciitis, December 24, 2009 traumatic injury claim under OWCP File No. xxxxxx417 that was accepted for bilateral foot strains and left biceps strain, and June 25, 2013 traumatic injury claim under OWCP File No. xxxxxx960 that was accepted for left ankle sprain. Appellant's prior claims have not been administratively combined with the present claim.

³ Appellant retired on disability from the employing establishment, effective October 23, 2017.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

combined. Due to appellant's accepted traumatic injury claim for bilateral lower extremity injuries currently before the Board and her prior accepted claims for bilateral lower extremity injuries, for a full and fair adjudication, the case shall be remanded to OWCP to administratively combine the current case record, OWCP File No. xxxxxx081, with OWCP File Nos. xxxxxx421, xxxxxx417, and xxxxxx960 and any other files with lower extremity injuries. This will allow OWCP to consider all relevant claim files in developing appellant's schedule award claim.⁵ Following this and other such development as deemed necessary, OWCP shall issue a *de novo* decision on appellant's schedule award claim.

IT IS HEREBY ORDERED THAT the February 10, 2021 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: September 21, 2021
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

⁵ *Id.*